THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO. 3790 OF 2005

Disposed of on 01-09-2005.

Between:

P.Damodar Reddy .. Petitioner

And

The Municipal Commissioner,

Manchiriyala Municipality, Adilabad and others

… Respondents

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO. 3790 OF 2005

ORDER :

1. This writ petition has been filed by P.Damodar Reddy assailing the action of the 1st respondent in dismissing the appeal preferred by him.

2. The petitioner is one of the brothers of P.Mukunda Reddy. It appears the said P.Mukunda Reddy died in 1986 and his property was claimed by his wife Smt.Annapurnamma under a WILL. Basing on the WILL his wife submitted an application in municipality for mutation of her name in the municipal records in respect of property bearing No.6-583 to 591. The municipality acceded to her request and accordingly necessary changes have been made in the registers. Assailing the entries made in the municipal records on the application of wife of P.Mukunda Reddy, the petitioner filed an appeal before the appellate authority. The petitioner along with another brother filed W.P.No.6026 of 2003 and subsequently they withdrew the writ petition with liberty to file an appeal under section 345 of A.P. Municipalities Act r/w Rule 7 of the Rules. It appears they presented an appeal petition on 29-11-2003. They also filed W.P.No.1897 of 2005 seeking direction to the respondent to receive the appeal and pass orders thereon. Pending said writ petition, orders came to be passed on the appeal presented by the petitioner and consequently the said writ petition came to be dismissed as infructuous on 19.4.2005. 1st respondent dismissed the appeal petition of the petitioners on 29.1.2005 on the ground of limitation. Assailing the order, the petitioner has filed this writ petition.

3. It is stated in the counter filed by the respondents that the petitioner earlier filed an appeal assailing the mutation of the house in the name of wife of P.Mukunda Reddy in the municipal records and the said appeal ended in dismissal. It is further stated that the petitioner has not chosen to question the orders passed in the said appeal and therefore, the present writ petition is not maintainable. I deem it appropriate to refer paras 5 to 7 of the counter affidavit and they are:

> " 5. It is respectfully submitted that this Honourable High Court passed the order in W.P.No.6026 of 2003 dated 21.4.2003, the

petitioners herein kept quite for six months and filed the appeal on 29.11.2003. The said appeal has to be filed within 30 days from the date of the order of mutation. In view of the legal embargo the said appeal was rejected as time barred and they have knowledge about the same. The orders passed in the appeal were communicated to them on 6.5.2004 itself. Inspite of the same, the petitioners herein are submitting petitions and the municipality is intimating them the fact of rejection. Again on 12.1.2005, Damodar Reddy filed appeal and also filed this writ petition.

6. It is respectfully submitted that the petitioners appear to be more interested to keep the issue in dispute instead of making efforts for getting relief as per provisions of the laws of the land. Therefore, the litigant petitioners are not entitled to any relief since the matter pertains to civil courts having territorial jurisdiction. The petitioners are suppressing the material facts with regard to rejection of appeal as barred by limitation.

7. It is respectfully submitted that the petitioners herein filed W.P.No.22104 of 2004 was filed challenging the action of the municipality in not giving opportunity before passing the order in appeal which is filed by Smt.P.Annapurna, W/o Late Mukunda Reddy. The Honourable Court dismissed the said writ petition by an order dt.22.2.2005."

4. Heard both sides.

5. Learned counsel for the petitioner submits that the order passed on 4.5.2004 on the appeal presented by the petitioner has not been communicated to the writ petitioner and therefore there was no occasion for the writ petitioner to assail the same. Where as it is contended by the learned Standing Counsel for the respondents that the order has been sent to the petitioner through a letter dated 6.5.2004 and the said letter bears disc. Number evidencing the dispatch of the same. Be that as it may, a fact remains that appeal filed by the writ petitioner has been disposed of on 4.5.2004. Unless the petitioner challenges the order dated 4.5.2004, the subsequent representations which led to the passing of the order impugned in the writ petition do constitute valid appeal petition in the eye of law. Yet another lacunae in the writ petition is that Smt.Annapurnamma in whose favour mutation has been effected in the municipal records and which mutation came to be

challenged in the appeal before the 1st respondent has not been impleaded as party respondent. Thus, I find that this writ petition is devoid of merits and the same is hereby dismissed.

Dated: 01-09-2005. (B.Seshasayana Reddy,J)

Tnb

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Dated: 01-09-2005.